

**THE UNITED STATES DISTRICT COURT
NORTHER DISTRICT OF OHIO
EASTERN DIVISION**

DOMINIC POTTS,)	CASE NO.: 4:07CV697
)	
Plaintiff,)	JUDGE JOHN ADAMS
)	
v.)	<u>ORDER</u>
)	
JAMES B. KLEIN, et al.,)	
)	
Defendants.)	

The Court has examined the Report and Recommended Decision of Magistrate Judge McHargh, submitted in this matter on November 6, 2007. Upon due consideration, and no objections having been filed by the parties, the Court adopts the Report and Recommended findings and conclusions of the Magistrate Judge and incorporates them herein. Therefore, it is ordered that Plaintiff's Motion for Leave to file a voluntary dismissal under Rule 41(a)(2) is construed as a notice of dismissal under Rule 41(a)(1). Defendants James, Fuqua and Younes are hereby **DISMISSED WITHOUT PREJUDICE**. Additionally, it is noted that Plaintiff previously filed a voluntary dismissal against, among others, Defendant Foltz and this Court previously dismissed Defendant Foltz on August 30, 2007. As such, the motions to dismiss with prejudice, filed by Defendants Foltz (Doc. #17), Younes (Doc. #16), and James and Fuqua (Doc. #21) are therefore **MOOT**.

So ordered.

Date: November 30, 2007

s/ Judge John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT COURT